



City Council Chambers
3300 Capitol Avenue
Fremont, California

City Council

Bob Wasserman, Mayor
Anu Natarajan, Vice Mayor
Bob Wieckowski
Bill Harrison
Suzanne Lee Chan

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Melissa Stevenson Dile, Deputy City Manager

Dawn G. Abrahamson, City Clerk
Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Daren Fields, Economic Dev. Director
Mary Kaye Fisher, Interim Human Resources Dir.
Annabell Holland, Parks & Recreation Dir.
Norm Hughes, City Engineer
Jill Keimach, Community Dev. Director
Bruce Martin, Fire Chief
Jim Pierson, Transportation & Ops Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

The City Council Agendas may be accessed by computer at the following Worldwide Web Address: www.fremont.gov

Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk
City of Fremont
3300 Capitol Avenue, Bldg. A
Fremont, California 94538
Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

AGENDA
FREMONT CITY COUNCIL REGULAR MEETING
JANUARY 13, 2009
COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A
7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – None.*
- 2.3 **SUBSTITUTION OF LEASE SECURITY FOR 2008 FIXED RATE CERTIFICATES OF PARTICIPATION**
*Adopt Resolution to Substitute Maintenance Facility for Three City Properties
Securing the 2008 Fixed Rate Certificates of Participation (COPs)*

Contact Person:

Name:	<i>Don Dorman</i>	<i>Harriet Commons</i>
Title:	<i>Revenue and Treasury Manager</i>	<i>Finance Director/Treasurer</i>
Dept.:	<i>Finance</i>	<i>Finance</i>
Phone:	<i>510-494-4616</i>	<i>510-284-4010</i>
E-Mail:	<i>ddorman@fremont.gov</i>	<i>hcommons@fremont.gov</i>

RECOMMENDATIONS:

- 1. *Adopt a resolution authorizing the substitution of the Maintenance Center Building for the three City properties presently subject to leases with the Fremont*

Public Financing Authority which secure the 2008 fixed rate certificates of participation debt service payments, and

- 2. Authorize the City Manager or his designee to execute all documents necessary to effectuate this substitution.*

2.4 APPROVAL OF LITTER ABATEMENT CONTRACT

Authorize the City Manager to Execute a 1 Year Litter Abatement Contract with Imhof Tractor Service, Inc., for \$65,300 with Option to Extend for Two Additional Years for a Total Possible Value Not-To-Exceed \$206,000

Contact Person:

<i>Name:</i>	<i>Barbara Silva</i>	<i>Kathy Cote</i>
<i>Title:</i>	<i>Supervising E.S. II</i>	<i>Environmental Services Manager</i>
<i>Dept.:</i>	<i>Transportation & Operations</i>	<i>Transportation & Operations</i>
<i>Phone:</i>	<i>510-494-4575</i>	<i>510-494-4583</i>
<i>E-Mail:</i>	<i>bsilva@fremont.gov</i>	<i>kcote@fremont.gov</i>

RECOMMENDATIONS:

- 1. Authorize the City Manager or his designee to enter into an agreement with Imhof Tractor Services, Inc., for litter abatement services in the amount not exceed \$65,300 as described in this staff report.*
- 2. Authorize the City Manager or his designee, at the City Manager's discretion, to approve and execute up to two one-year extensions to the contract with Imhof Tractor Services, Inc., for litter abatement services in an amount not-to-exceed \$68,565 for the first year extension, and an amount not to exceed \$71,993 for the second year extension.*

2.5 APPROVE CONTRACT FOR ROADWAY PAVEMENT CONDITION SURVEYS AND ANALYSIS WITH NICHOLS CONSULTING ENGINEERS, CHTD.

Approve Contract for Roadway Pavement Condition Surveys and Analysis with Nichols Consulting Engineers, Chtd, and Appropriate \$40,000 Grant for the 2009 Pavement Management Program Update, 8657 (PWC)

Contact Person:

<i>Name:</i>	<i>Craig Covert</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Associate Civil Engineer</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510- 494-4785</i>	<i>510-474-4748</i>
<i>E-Mail:</i>	<i>ccover@fremont.gov</i>	<i>nhughes@fremont.gov</i>

RECOMMENDATIONS:

- 1. Authorize the City Manager or his designee to execute a service agreement with Nichols Consulting Engineers, Chtd., for pavement condition surveys and analysis as required to update the City's Pavement Management System, in an amount not to exceed \$124,900.*
- 2. Appropriate funds in the grant amount of \$40,000 to 502PWC8657.*

2.6 TRANSMITTAL OF FY 2007/08 AUDIT REPORTS

Transmittal of FY 2007/08 Audit Reports

Contact Person:

<i>Name:</i>	<i>Raymond M. Durant Jr.</i>	<i>Harriet Commons</i>
<i>Title:</i>	<i>Assistant Director</i>	<i>Director</i>
<i>Dept.:</i>	<i>Finance</i>	<i>Finance</i>
<i>Phone:</i>	<i>510-494-4601</i>	<i>510-284-4010</i>
<i>E-Mail:</i>	<i>rdurant@fremont.gov</i>	<i>hcommons@fremont.gov</i>

RECOMMENDATION: Receive audit reports and file.

2.7 FY 2008-09 MEDI-CAL TARGETED CASE MANAGEMENT MEMORANDUM OF UNDERSTANDING WITH ALAMEDA COUNTY

Authorization for the City Manager to Sign FY 2008/09 Memorandum of Understanding with the Alameda County Health Care Services Agency for the Medi-Cal Targeted Case Management Program

Contact Person:

<i>Name:</i>	<i>Arquimides Caldera</i>	<i>Suzanne Shenfil</i>
<i>Title:</i>	<i>Deputy Director</i>	<i>Director</i>
<i>Dept.:</i>	<i>Human Services</i>	<i>Human Services</i>
<i>Phone:</i>	<i>510-574-2056</i>	<i>510-574-2051</i>
<i>E-Mail:</i>	<i>acaldera@fremont.gov</i>	<i>sshensfil@fremont.gov</i>

RECOMMENDATION: Authorize the City Manager or designee to sign a Memorandum of Understanding to enable the City to receive reimbursement for family case management and senior case management services provided to Medi-Cal eligible clients as part of the FY 2008/09 Targeted Case Management program.

2.8 AMEND CAPITAL IMPROVEMENT PROGRAM FOR PROPOSITION 1B FUNDS

Authorize Application for Proposition 1B Local Streets and Roads Funds and Amend Adopted FY 2007/08 – 2011/12 Capital Improvement Program to Appropriate Proposition 1B funds to Street Overlay Project PWC 8234 for the Fiscal Year 2008/09

Contact Person:

<i>Name:</i>	<i>Sean O'Shea</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Management Analyst II</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4777</i>	<i>510-494-4748</i>
<i>E-Mail:</i>	<i>soshea@fremont.gov</i>	<i>nhughes@fremont.gov</i>

RECOMMENDATIONS:

- 1. Authorize staff to apply for the allocated Proposition 1B funds.*
- 2. Amend the FY 2007/08 – 2011/12 Capital Improvement Program (CIP) to appropriate the \$3,146,639.68 of Proposition 1B Local Street and Road Improvement Funds to the Street Overlay Project (527PWC8234) for FY 2008/09.*

2.9 *FAMILY RESOURCE CENTER FEE SCHEDULE UPDATE*

Public Hearing (Published Notice) to Consider Revising the Master Fee Schedule to Include New FRC Mental Health Service Fee Category and Rates

Contact Person:

Name: Judy Schwartz

Suzanne Shenfil

Title: FRC Administrator

Director

Dept.: Human Services

Human Services

Phone: 510-574-2062

510-574-2051

E-Mail: jschwartz@fremont.gov

sshenfil@fremont.gov

RECOMMENDATION:

- 1. Hold a public hearing.*
- 2. Adopt a resolution to incorporate a fee schedule change to add FRC mental health services fees, as described in the staff report, to the Master Fee Schedule.*

3. CEREMONIAL ITEMS – None.

4. PUBLIC COMMUNICATIONS

4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – The Redevelopment Agency Board will convene at this time and take action on the agenda items listed on the Redevelopment Agency Agenda. See separate agenda (yellow paper).

PUBLIC FINANCING AUTHORITY – The Public Financing Authority Board will convene at this time and take action on the agenda items listed on the Public Financing Authority Agenda. See separate agenda (lilac paper).

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS

5.1 CONSIDERATION OF ORDINANCE CREATING LICENSING REQUIREMENTS FOR PLACES OF ENTERTAINMENT

Public Hearing to Consider Adoption of an Ordinance Regulating the Operation of Specified Places of Entertainment by Requiring Operators to Obtain an Entertainment License

Contact Person:

Name:	Harvey E. Levine	Craig Steckler
Title:	City Attorney	Chief of Police
Dept.:	City Attorney's Office	Police Department
Phone:	510-284-4030	510-790-6800
E-Mail:	hlevine@fremont.gov	csteckler@fremont.gov

RECOMMENDATIONS:

1. Hold public hearing.
2. Find the project is exempt from the California Environmental Quality Act under guideline 15061(b)(3) in that it can be seen with certainty it will not have a significant effect on the environment.
3. Introduce an ordinance amending Title V of the Fremont Municipal Code by adding Chapter 14, entitled "Places of Entertainment Regulations" as set forth in the draft ordinance.

6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

7.1 UPDATE ON FORMER CITY CORPORATION YARD

Staff Update and City Council and Redevelopment Agency Guidance on Potential Disposition and Development of the Former City Corporation Yard Located at 37350 Sequoia Road in the Centerville Redevelopment Project Area

Contact Person:

Name:	Bill Cooper	Elisa Tierney
Title:	Housing Project Manager	Redevelopment Agency Director
Dept.:	Office of Housing & Redevelopment	Office of Housing & Redevelopment
Phone:	510-494-4520	510-494-4501
E-Mail:	bcooper@fremont.gov	etierney@fremont.gov

RECOMMENDATION: Staff recommends that the City Council and Agency Board wait until the Plan Amendment is adopted before taking any action regarding the disposition and development of the former Corporation Yard site.

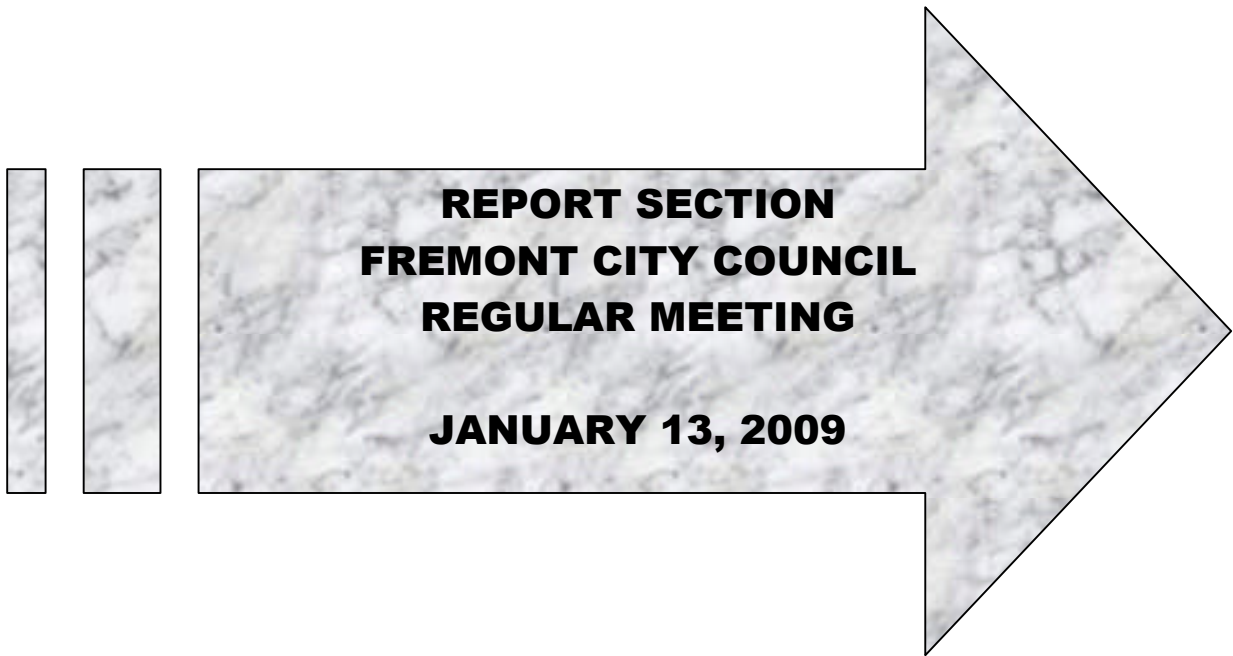
8. COUNCIL COMMUNICATIONS

8.1 Council Referrals

8.1.1 MAYOR WASSERMAN REFERRAL: Appointment of Tim Tran to the Redevelopment Agency Relocation Appeals Board

8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



**REPORT SECTION
FREMONT CITY COUNCIL
REGULAR MEETING**

JANUARY 13, 2009

***2.3 SUBSTITUTION OF LEASE SECURITY FOR 2008 FIXED RATE CERTIFICATES OF PARTICIPATION**

Adopt Resolution to Substitute Maintenance Facility for Three City Properties Securing the 2008 Fixed Rate Certificates of Participation (COPs)

Contact Person:

Name:	Don Dorman	Harriet Commons
Title:	Revenue and Treasury Manager	Finance Director/Treasurer
Dept.:	Finance	Finance
Phone:	510-494-4616	510-284-4010
E-Mail:	ddorman@fremont.gov	hcommons@fremont.gov

Note: A companion report is on the agenda of the Fremont Public Financing Authority tonight.

Executive Summary: The proposed resolution substitutes the Maintenance Center property for three properties temporarily used to secure debt service payments for the 2008 fixed rate certificates of participation (COPs). This substitution will release the encumbrances against the Development Services Center building and Fire Stations 5 and 10 in the leases between the City and the Fremont Public Financing Authority (PFA). These three properties were initially used in the lease pending the Maintenance Center property being freed up with the refunding of the 2002 COPs, which occurred in November 2008 using proceeds from the 2008 variable rate COPs. The City's intention to make this substitution was described in both the preliminary official statement and the official statement for the 2008 fixed rate COPs.

BACKGROUND: The City Council authorized the issuance of two COPs at the end of 2008: (1) the 2008 fixed rate COPs, which refunded the 1990, 1991, and 2003 COPs, and (2) the 2008 variable rate COPs, which refunded the 2002 COPs, and raised almost \$16 million for previously approved capital projects. One reason for refunding the older COPs was to release some of the City property being used to secure the debt service payments for the existing COPs, thereby making more efficient use of the City's equity in its public property.

Discussion: When the 2008 fixed rate COPs were approved, the stated plan was to eventually substitute the Maintenance Center located at 42551 Osgood Road for the three City properties temporarily leased to secure the debt service payments: (1) the Development Services Center building located at 39550 Liberty Street, (2) Fire Station 5 (Warm Springs) located at 55 Hackamore Lane, and (3) Fire Station 10 (Ardenwood) located at 5001 Deep Creek Road. This substitution of leased properties was to occur after the City refunded its 2002 COPs with the proceeds from the 2008 variable rate COPs, which happened in November. The proposed resolution completes the transactions according to this plan.

If approved by Council, the City Manager will be authorized to sign the documents needed to effect this substitution: the lease documents between the City and the PFA, and the amendment to the assignment by the PFA of its rights under the leases to the COP trustee for the benefit of the investors.

ENCLOSURE: Draft Resolution

RECOMMENDATIONS:

1. Adopt a resolution authorizing the substitution of the Maintenance Center Building for the three City properties presently subject to leases with the Fremont Public Financing Authority which secure the 2008 fixed rate certificates of participation debt service payments, and
2. Authorize the City Manager or his designee to execute all documents necessary to effectuate this substitution.

***2.4 APPROVAL OF LITTER ABATEMENT CONTRACT**

Authorize the City Manager to Execute a 1 Year Litter Abatement Contract with Imhof Tractor Service, Inc., for \$65,300 with Option to Extend for Two Additional Years for a Total Possible Value Not-To-Exceed \$206,000

Contact Person:

Name:	Barbara Silva	Kathy Cote
Title:	Supervising E.S. II	Environmental Services Manager
Dept.:	Transportation & Operations	Transportation & Operations
Phone:	510-494-4575	510-494-4583
E-Mail:	bsilva@frer	kcote@fremont.gov

Executive Summary: The City contracts for litter abatement services that are required to maintain the City's federally mandated National Pollutant Discharge Elimination System (NPDES) permit. Pursuant to a competitive procurement process, staff is recommending the City Council authorize the City Manager to execute a contract with Imhof Tractor Services, Inc., to provide litter abatement services along 680 and 880 highway interchanges within Fremont. Staff is recommending a one year contract, not to exceed \$65,300, commencing January 2009, with the option to renew for up to two additional years. If the City chooses to extend the contract, staff is estimating the total contract value would not exceed \$206,000 for the three year period. This contract will be funded from Integrated Waste Management fees, collected for the purpose of managing solid waste within the City. There is no General Fund impact.

BACKGROUND: Litter abatement is conducted citywide as part of the City NPDES compliance effort and helps prevent inappropriate material from entering the storm drain system. While the City can use volunteers for litter abatement in some areas, this would not be appropriate on the highway interchanges due to safety concerns. The City previously contracted with Art Cuevas Landscaping to provide litter abatement services along 680 and 880 highway interchanges. The contract with Art Cuevas Landscaping had been in effect since December 1, 2006; however, it expired February 1, 2008.

Earlier this year, the City Council approved a contract with Imhof Tractor Service for the abatement of weeds, vegetation and waste from City property or property where the City had maintenance rights. This is a three-year contract at a not-to-exceed cost of \$120,000 per year. The City Purchasing Ordinance delegates authority to the City Manager to award contracts of up to \$100,000 per fiscal year per contractor. Since Imhof Tractor Service had already been awarded a \$120,000 contract for the current fiscal year, Council approval is required for this \$65,300 contract.

Discussion: Earlier in the fiscal year, the City released a request for proposals for litter abatement services at 680 and 880 highway interchanges. Of the four proposers, Imhof Tractor Service, Inc., received the highest ranking based on price, experience and qualifications.

Scope of Services: Imhof Tractor Services, Inc. (Contractor) is to provide all labor, materials, tools, equipment, personnel, disposal services, transportation and all incidental work and services required for the complete litter abatement along 680 and 880 highway interchanges in Fremont.

For the performance of services under this agreement, the contractor shall take service requests from the City's Urban Landscape Supervisor. Work will be performed on both a scheduled and "emergency" basis. Litter abatement services along the highway interchanges shall be performed two times per month along interchange I-880 and one time per month along interchange 680. The City may increase or decrease the interchange collection schedule, with 30 days written notice to the contractor.

Contract Terms: The term of this contract is from the date of award through January 2010. The contract provides for two optional one-year extensions through January 2012. Any extension(s) for an additional one-year term shall be by contract amendment. Staff is requesting that the City Manager be given the authority to approve these extensions, as he deems appropriate, within the terms included herein.

The contractor's hourly rate may be adjusted prior to the commencement of any contract extensions. Prices may be increased each July 1 by an amount not-to-exceed the percentage change in the Consumer Price Index, San Francisco-Oakland Standard Metropolitan Statistical Area, for the twelve month period ending April 30 of the preceding year, but in any event shall not exceed 5% of the previous year's unit costs. The compensation payable to the Contractor for the first year contract extension shall not exceed \$68,565; and for the second year contract extension, the compensation payable to the Contractor shall not exceed \$71,993.

Funding: Funding for this fiscal year's litter abatement services is available in the current Integrated Waste Management budget. Future years' services will be funded from Integrated Waste Management fees. There is no General Fund impact.

ENCLOSURE: None

RECOMMENDATIONS:

1. Authorize the City Manager or his designee to enter into an agreement with Imhof Tractor Services, Inc., for litter abatement services in the amount not exceed \$65,300 as described in this staff report.
2. Authorize the City Manager or his designee, at the City Manager's discretion, to approve and execute up to two one-year extensions to the contract with Imhof Tractor Services, Inc., for litter abatement services in an amount not-to-exceed \$68,565 for the first year extension, and an amount not to exceed \$71,993 for the second year extension.

***2.5 APPROVE CONTRACT FOR ROADWAY PAVEMENT CONDITION SURVEYS AND ANALYSIS WITH NICHOLS CONSULTING ENGINEERS, CHTD.**

Approve Contract for Roadway Pavement Condition Surveys and Analysis with Nichols Consulting Engineers, Chtd, and Appropriate \$40,000 Grant for the 2009 Pavement Management Program Update, 8657 (PWC)

Contact Person:

Name:	Craig Covert	Norm Hughes
Title:	Associate Civil Engineer	City Engineer
Dept.:	Community Development	Community Development
Phone:	510- 494-4785	510-474-4748
E-Mail:	ccovert@fremont.gov	nhughes@fremont.gov

Executive Summary: Staff wishes to award a contract to perform the roadway pavement condition survey and analysis and prepare a summary report, and recommends that the City Council approve a contract with Nichols for the 2009 Pavement Management Program Update Project, 8657 (PWC) in an amount not to exceed \$124,900. Staff also recommends appropriating \$40,000 from a MTC grant to 8657 (PWC).

BACKGROUND: In December 2005, staff selected Nichols to perform roadway pavement condition surveys and analysis services required to update the City's Pavement Management Program based on the work they successfully completed to update the City's Pavement Management Program in 2004. In accordance with section 2108.1 of the Streets and Highway Code, the Metropolitan Transportation Commission (MTC) requires that cities submitting pavement maintenance and rehabilitation projects for funding under the State Transportation Improvement Program (STIP) utilize a certified Pavement Management Program.

Discussion: In order to maintain certification and eligibility to receive STIP funding, the City must inspect the pavement sections for all arterial and collector routes every two years and for all streets every five years. In 2004, an "all streets" inspection was performed. In 2006 the arterial and collector streets were inspected. In 2008, the MTC approved a one year extension of the Fremont arterial and collector streets inspection so that it would coincide with the next required "all streets" inspection in 2009. The City of Fremont's current certification will expire on October 31, 2009. The data from the inspection work will be used to determine Pavement Condition Index (PCI) information and establish maintenance and rehabilitation strategies for the City.

Staff recommends awarding the service agreement to Nichols for the 2009 Pavement Management Program Update Project, 8657 (PWC) in the amount of \$124,900. Funding for the services under the agreement will come from the project budget. No additional funding is required to complete the service agreement.

In February 2008, MTC invited local agencies to apply for a grant from the Pavement Management Technical Assistance Program (P-TAP) Round 10. The City applied for a grant for the maximum amount of \$40,000 and requested that these funds, if awarded, be applied to the Pavement Management Program. Nichols Consulting Engineers was listed as the consultant of record on the grant application.

In June 2008, MTC informed the City that the grant in the amount of \$40,000 was approved. Staff recommends that the \$40,000 be appropriated to 8657 (PWC) for the pavement condition survey and analysis to be performed by Nichols Consulting Engineers, Chtd. under this Service Agreement.

The City Manager has found that requirements of section 2-9701 for an exception to competitive solicitation requirements have been satisfied. Staff has determined that using Nichols Consulting Engineers is most advantageous to the City. This consultant has already been approved by MTC. A competitive process to select a consultant would be time consuming and could jeopardize the grant which has strict time deadlines. In addition, utilizing another firm to perform the pavement analysis work would be more costly both in terms of time and expense because the “new” engineering firm would have to familiarize themselves with the City’s street system. Nichols Engineering has extensive knowledge of the City’s street system and has successfully performed this pavement survey and analysis in the past. Entering into this contract meets the purposes and goals of the purchasing code to: (1) obtain the most cost effective result for the city and avoiding waste while balancing between the costs and benefits of maximizing quality within available resources; (2) consider available information regarding other potential contractors; and (3) to avoid favoritism and conflicts of interest; and (4) to efficiently use city resources in the preparation and approval of contracts.

ENCLOSURE: None

RECOMMENDATIONS:

1. Authorize the City Manager or his designee to execute a service agreement with Nichols Consulting Engineers, Chtd., for pavement condition surveys and analysis as required to update the City’s Pavement Management System, in an amount not to exceed \$124,900.
2. Appropriate funds in the grant amount of \$40,000 to 502PWC8657.

***2.6 TRANSMITTAL OF FY 2007/08 AUDIT REPORTS**

Transmittal of FY 2007/08 Audit Reports

Contact Person:

Name:	Raymond M. Durant Jr.	Harriet Commons
Title:	Assistant Director	Director
Dept.:	Finance	Finance
Phone:	510-494-4601	510-284-4010
E-Mail:	rdurant@fremont.gov	hcommons@fremont.gov

Executive Summary: The independent audit of the City's comprehensive annual financial report (CAFR) for the fiscal year ended June 30, 2008, by the independent accounting firm of Caporicci & Larson, is complete and those financial statements have been issued with an unqualified ("clean") opinion from the auditors. In addition to the audit of the City's financial statements, there are other audits the City is required to undergo, and those occur at the same time as the overall City audit. All of these other audits and procedures resulted in unqualified ("clean") reports from the City's independent auditors, and the City continues to have no material internal control weaknesses. Staff recommends that the City Council receive and file the audit reports.

BACKGROUND: Various financing covenants and regulations associated with restricted funding sources require the City to publish a complete set of financial statements (also referred to as the comprehensive annual financial report or CAFR) presented in conformance with generally accepted accounting principles (GAAP) and audited by a firm of licensed certified public accountants. These statements, for the fiscal year ended June 30, 2008, have been prepared, and they have been audited by the certified public accounting firm of Caporicci & Larson, which has issued an unqualified ("clean") opinion on them.

The reporting entity for these financial statements is defined as the City itself, as well as those separate legal entities for which the City Council exercises significant control, namely, the Redevelopment Agency of the City of Fremont, the Fremont Public Financing Authority, and the Fremont Social Services Joint Powers Authority. The transactions of these other separate entities are combined with those of the City in preparing the City's comprehensive annual financial report because to omit them would cause the City's financial statements to be misleading under generally accepted accounting principles.

Discussion: The City's financial statements provide information about the finances of the City in its entirety, as well as information about individual funds. The General Fund is the chief operating fund of the City. At the end of FY 2007/08, total fund balance in the General Fund was \$36,521,000. Of this amount, \$203,000 was reserved for encumbrances for purchase orders issued prior to June 30, 2008, but for which the goods or services were not received prior to year-end. In addition, \$17,801,000 was designated by City Council policy for use for costs associated with unforeseen events (contingencies), and \$3,560,000 was designated by City Council policy for start-up costs for future programs with potential to generate revenues sufficient to cover costs and repay the start-up investment. Both of these policies were adopted by the City Council in June 1996, and these are the City's designated "primary reserves."

In addition, \$11,176,000 was designated as a budget uncertainty reserve to provide funds to mitigate the effects of severe economic fluctuations and unforeseen effects of the State budget on City finances, and \$649,000 was designated for fair market value adjustments on the City's investment portfolio for net gains recognized by the City, but not yet realized at June 30, 2008.

Below is a schedule that summarizes the above information. Because the City's reserves are included in the General Fund for financial reporting purposes, they need to be deducted from total General Fund fund balance to determine the amount available for appropriation:

GENERAL FUND BUDGETARY FUND BALANCE AT THE END OF 2007/08

Total fund balance, June 30, 2008	\$ 36,521,000
Less: Reserve for encumbrances	(203,000)
Unreserved fund balance	36,318,000
Less: Designations for –	
Contingency reserve	(17,801,000)
Program investment reserve	(3,560,000)
Budget uncertainty reserve	(11,176,000)
Unrealized investment gains	(649,000)
Fund balance at June 30, 2008, available for appropriation in FY 2008/09	<u>\$ 3,132,000</u>

Although \$2,243,000 of unreserved fund balance was appropriated in the FY 2008/09 operating budget, this action was taken before the end of FY 2007/08, and final results for the year were not yet known. After the books were closed, it was determined that \$3,132,000 was actually available to fund FY 2008/09 appropriations, as noted in the above schedule – a difference of \$889,000. The components of this difference, on a budgetary basis, are summarized in the table below:

FY 2007/08 General Fund Summary – Budget Basis

	<u>May 2008 Estimate</u>	<u>Audited Actual</u>	<u>Difference from May 2008 Estimate</u>
Revenues and transfers in	\$135,983,000	\$135,679,000	(\$ 304,000)
Expenditures and transfers out	<u>140,620,000</u>	<u>139,427,000</u>	<u>1,193,000</u>
Net results of operations	(4,637,000)	(3,748,000)	889,000
Fund balance, July 1, 2007	<u>6,880,000</u>	<u>6,880,000</u>	<u>0</u>
Fund balance, June 30, 2008	<u>\$ 2,243,000</u>	<u>\$ 3,132,000</u>	<u>\$ 889,000</u>

The amounts, above, are slightly different than amounts reported in the CAFR because of a difference in reporting treatment for items like transfers to the primary reserves and unrealized investment gains/losses. For example, transfers to the primary reserves are treated as transfers out of the General

Fund for budget purposes, but are not reported for CAFR purposes because the primary reserves are combined with the General Fund.

Although revenues overall grew by 4.6% between FY 2006/07 and FY 2007/08, revenues wound up \$304,000 lower than staff's year-end estimate in May 2008. The primary components of lower revenues were property taxes (\$200,000), property transfer taxes (\$200,000) and sales taxes (\$300,000), all of which are related to the housing slump and the subprime mortgage situation. These lower revenues were offset by a combination of smaller revenues that in total were \$400,000 higher than estimated when the budget was adopted in June.

Actual property tax revenues, consisting of both base property tax and VLF property tax replacement, grew by 5.9% in FY 2007/08, but they were \$200,000 less than the year-end estimate, primarily due to an increase in delinquencies countywide, which went from a four-year average of approximately 2% to almost 3.5% in FY 2006/07, to almost 4.8% in FY 2007/08. Although Fremont's delinquencies, specifically, do not appear to be that high, both delinquencies and supplemental property taxes are allocated on a countywide basis, and so the City shares in the delinquencies in other parts of the County.

Sales tax revenues in FY 2007/08 increased 4.1% compared to the prior year. However, sales tax revenue missed the year-end estimate by \$300,000, largely because of slower automobile sales and sales of housing-related items, such as construction materials, furniture, and appliances.

Vehicle license fee (VLF) revenues actually decreased 23.1% compared to the prior year, primarily because of a change in State law (AB 1602) that provides for an annual redistribution of VLF revenues to newly incorporated cities and annexed areas throughout the state. Slowing automobile sales were also a factor. Other smaller miscellaneous revenues more than offset this loss, resulting in total other revenues being \$400,000 higher than staff estimated in May 2008.

Offsetting the lower revenues were \$1,193,000 in expenditure savings from ongoing department efforts to save money wherever possible, as well as savings from staff vacancies that often occur because of a lag between the time employees retire or otherwise leave City employment and the time new staff are hired to fill those vacant positions. The net result of \$304,000 less revenues and \$1,193,000 in expenditure savings is \$889,000 more fund balance at the end of FY 2007/08 than was anticipated in May 2008.

Another important indicator of the General Fund's overall fiscal condition is the difference between revenues and transfers in, and expenditures and transfers out. For FY 2007/08, this amount for the total General Fund (including amounts designated by the City Council as reserves) was a negative \$3,748,000. When the amount transferred from General Fund operations to the "primary reserves" of \$1,970,000 is deducted, the General Fund's "net results of operations" for FY 2007/08 comes in at a negative \$1,778,000. In other words, revenues and expenditures were out of balance for FY 2007/08. This out-of-balance condition required the use of fund balance, which caused the fund balance to decrease from \$6,880,000 in July 2007 to \$3,132,000 on June 30, 2008. Were it not for aggressive budget management actions undertaken by staff at midyear, the decrease in fund balance would have been larger.

In addition to the audit of the City's financial statements, there are other audits the City is required to undergo, and those occur at the same time as the overall City audit. These are financial and compliance audits of different sources of funds the City receives (for example, CDBG, as part of the federally-mandated "Single Audit", Measure B, and Transportation Development Act funds), as well as procedures performed to assess the accuracy of the City's calculation of its constitutional appropriations limit. The standards governing Single Audit engagements require the independent auditor to report not only on the fair presentation of the financial statements, but also on the audited government's internal controls and compliance with legal requirements, with special emphasis on internal controls and legal requirements involving the administration of federal monies. All of these other audits and procedures resulted in unqualified reports from the City's independent auditors.

Separate financial statements are prepared for the City's Redevelopment Agency, and these separate financial statements are also audited. The audit report was unqualified ("clean").

An important element of the annual audit is a review by the auditors of the City's system of internal control. Management of the City has established a comprehensive internal control framework that is designed both to protect the City's assets from loss, theft or misuse and to compile sufficient reliable information for the preparation of the City of Fremont's financial statements in conformance with GAAP. Because the cost of internal controls should not outweigh their benefits, the City's comprehensive framework of internal controls has been designed to provide reasonable, rather than absolute, assurance that the financial statements will be free from material misstatement.

No material internal control weaknesses were noted. If the auditors had found any material internal control weaknesses, they would have been required to report those directly to the City Council, and to the federal government. The reports the auditors issued as a result of the FY 2007/08 audit indicate the City continues to have no material internal control weaknesses. However, a significant deficiency was noted that resulted in the need to restate beginning fund balance at July 1, 2007, to record capital asset costs related to the Washington Boulevard/Paseo Padre Parkway Grade Separation project in prior years. This restatement affected only capital assets at the entity-wide level and had no effect on the City's governmental fund statements or on fund balance in any of its funds.

The audit reports have been distributed to Council. In addition, copies are available for review in the City Clerk's Office or in the Finance Department.

ENCLOSURE: None

RECOMMENDATION: Receive audit reports and file.

***2.7 FY 2008-09 MEDI-CAL TARGETED CASE MANAGEMENT MEMORANDUM OF UNDERSTANDING WITH ALAMEDA COUNTY**
Authorization for the City Manager to Sign FY 2008/09 Memorandum of Understanding with the Alameda County Health Care Services Agency for the Medi-Cal Targeted Case Management Program

Contact Person:

Name:	Arquimides Caldera	Suzanne Shenfil
Title:	Deputy Director	Director
Dept.:	Human Services	Human Services
Phone:	510-574-2056	510-574-2051
E-Mail:	acaldera@fremont.gov	sshenfil@fremont.gov

Executive Summary: The purpose of this report is to recommend authorizing the City Manager to sign a Memorandum of Understanding (MOU) for fiscal year 2008/09 with Alameda County Health Care Services Agency (HCSA) to enable the City to continue receiving reimbursement of funds through the Targeted Case Management (TCM) program for family case management and senior case management services provided to local Medi-Cal eligible individuals and families. This report also updates the Council on the loss of six months of FY 2008/09 TCM funding and the Human Services Department's contingency plans for mitigating this loss. Due to a discrepancy in the State Welfare and Institution Code, which has since been corrected by the State legislature, the City will only be reimbursed for case management encounters carried out in the second half of FY 2008/09. Staff estimates the City will receive approximately half of the maximum eligible reimbursement, or an estimated total of \$126,991, for family case management and senior case management services. In anticipation of this revenue loss, the Human Services Department plans to use existing TCM contingency funding.

BACKGROUND: Targeted Case Management (TCM) is a California Department of Health Care Services (DHCS) program administered in each county by Local Government Agencies (LGAs). In Alameda County, the Alameda County Health Care Services Agency serves as the LGA for the City of Fremont. The City has participated in the TCM program since FY 2002/03. The City is reimbursed for family case management services provided by the Family Service Team at the Fremont Family Resource Center, and senior case management services provided by the Aging and Family Services Division.

The TCM program reimburses the City for approximately 48% of the estimated costs associated with providing case management services to Medi-Cal eligible clients. The exact amount of funding the City receives is generally based on: 1) a cost report completed by the City's Finance Department in cooperation with the Human Services Department; and 2) the actual number of face-to-face contacts case managers have with Medi-Cal eligible individuals and families during the year. In FY 2007/08, the City claimed reimbursement for approximately \$215,000 in TCM costs.

FY 2008/09 City TCM Reimbursement Eligibility: In July 2008, the California Department of Health Care Services (DHCS) reversed prior practice and decided that beginning in FY 2008/09, they would not be reimbursing TCM services provided by cities. Auditors in DHCS interpreted that cities, as stated in the Welfare and Institution Code, are not LGAs. Subsequently, AB 2527 (Berg), adopted by the Legislature and effective January 1, 2009, clarifies that public entities, including cities, are eligible for

reimbursement. Unfortunately, the legislation is not retroactive and the City has lost six months of reimbursement, or approximately \$126,991. In anticipation of this revenue loss, the Human Services Department plans to use existing TCM contingency funding, which the City has in place to mitigate fluctuations in reimbursement or potential audit disallowances in the future. Staff estimates the City will receive approximately \$126,991 for eligible reimbursement for the second half of FY 2008/09. The exact amount the City will receive will be based on the number of face-to-face contacts case managers have with Medi-Cal eligible individuals and families.

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager or designee to sign a Memorandum of Understanding to enable the City to receive reimbursement for family case management and senior case management services provided to Medi-Cal eligible clients as part of the FY 2008/09 Targeted Case Management program.

***2.8 AMEND CAPITAL IMPROVEMENT PROGRAM FOR PROPOSITION 1B FUNDS
Authorize Application for Proposition 1B Local Streets and Roads Funds and Amend
Adopted FY 2007/08 – 2011/12 Capital Improvement Program to Appropriate Proposition
1B funds to Street Overlay Project PWC 8234 for the Fiscal Year 2008/09**

Contact Person:

Name:	Sean O'Shea	Norm Hughes
Title:	Management Analyst II	City Engineer
Dept.:	Community Development	Community Development
Phone:	510-494-4777	510-494-4748
E-Mail:	soshea@fremont.gov	nhughes@fremont.gov

Executive Summary: The purpose of this report is to request approval to apply for Proposition 1B Local Streets and Roads funds and to amend the adopted FY 2007/08 – 2011/12 Capital Improvement Program to appropriate Proposition 1B funds to the Street Overlay project (PWC 8234). It is a requirement of the State Controller that the project receiving the requested funds be part of an approved project budget. Council approved an amendment of the capital budget to appropriate the initial allocation of \$3,404,439.16 in Proposition 1B funds for FY 2007/08 on January 18, 2008. This request is to appropriate the remaining balance of \$3,146,639.68 in Proposition 1B funds for FY 2008/09 to the Street Overlay project.

The State recently notified the City that this round of Prop 1B funding has been put on hold due to the State budget crisis. Staff recommends that the City move forward with the application of the Prop 1B funds in anticipation that the funding will be available at the time of the award of the construction contract.

BACKGROUND: Proposition 1B was instituted in November 2006 as part of the statewide infrastructure bond package. Proposition 1B is the transportation portion, out of which funds were dedicated to cities and counties for local streets and roads. These funds can be used for street pavement maintenance, traffic congestion relief projects, transit system facility improvements, safety projects, or as a local match for state and federal funded projects. The State Controller allocated Fremont \$3,404,439.16 for FY 2007/08, and has allocated the balance of Proposition 1B funds in the amount of \$3,146,639.68 for FY 2008/09. If appropriated, the FY 2008/09 capital budget funding for Street Overlays would increase to \$5,999,639.68.

Discussion: Citywide, Fremont streets and roads have a Pavement Condition Index (PCI) of 68, which is considered fair. However, the maintenance backlog for Fremont's 485 centerlane street miles is currently \$237 million. If sufficient funding is unavailable for street maintenance, the average PCI of the network is expected to decrease, and the deferred maintenance backlog will increase. Given this vast need, staff recommends that the entire FY 2008/09 allocation of \$3,146,639.68 be focused on street maintenance. If street maintenance is deferred, the higher backlog will result in increased future costs as more capital intensive treatments (such as reconstruction) will be necessary where less expensive treatments (such as surface seals or overlays) are currently feasible. Staff recommends applying the full FY 2008/09 Proposition 1B allocation to Street Overlays because Fremont has a substantial backlog of streets that have deteriorated to the point that seal coats are not effective treatments, and yet the streets

are not in need of full reconstruction. This funding would increase the number of streets that Fremont can overlay in FY 2008/09 and would prevent even higher costs in the future.

In addition to the requirement that Proposition 1B funded projects be part of an adopted budget, Proposition 1B funds are to be allocated on a first come, first serve basis. Pending approval by Council, staff will apply to the State for Proposition 1B Local Streets and Roads Program 2008/09 funding.

The State recently notified the City that this round of Prop 1B funding has been put on hold due to the State budget crisis. Staff recommends that the City moves forward with the application of the Prop 1B funds in anticipation that the funding will be available at the time of the award of the construction contract. If the funding is not received, staff will return to Council with an action to amend the budget accordingly.

ENCLOSURE: None

RECOMMENDATIONS:

1. Authorize staff to apply for the allocated Proposition 1B funds.
2. Amend the FY 2007/08 – 2011/12 Capital Improvement Program (CIP) to appropriate the \$3,146,639.68 of Proposition 1B Local Street and Road Improvement Funds to the Street Overlay Project (527PWC8234) for FY 2008/09.

***2.9 FAMILY RESOURCE CENTER FEE SCHEDULE UPDATE**

Public Hearing (Published Notice) to Consider Revising the Master Fee Schedule to Include New FRC Mental Health Service Fee Category and Rates

Contact Person:

Name:	Judy Schwartz	Suzanne Shenfil
Title:	FRC Administrator	Director
Dept.:	Human Services	Human Services
Phone:	510-574-2062	510-574-2051
E-Mail:	jschwartz@fremont.gov	sshenfil@fremont.gov

Executive Summary: The purpose of this report is to recommend additions to service fees charged by the Human Services Department, Family Resource Center. These additions are necessary to maximize the amount of reimbursement from Medi-Cal for eligible mental health services.

BACKGROUND: The Human Services Department, Family Resource Center staff provides mental health services to families. Establishing equitable and efficient fee rates are an important component of the Family Resource Center's goal of leveraging existing reimbursement while supporting families to become self sufficient.

FRC Mental Health Services: Since 2001, the City has received funding from Alameda County Behavioral Health Care Services (ACBHCS) for a mental health professional to serve on a multi-disciplinary and multi-agency Family Service Team (FST) at the Fremont Family Resource Center (FRC). The FST serves clients with multiple issues who are receiving public assistance. An example of services would be to provide a client with both employment services and mental health counseling, as he/she navigates the CalWORKs system.

The Human Services Department can claim reimbursement at the State and federal maximum reimbursement or for the actual costs of providing services, whichever is less, as long as the rates are incorporated into a general fee schedule that applies to all clients. Based on a staff analysis, the State and federal maximum rates are less than the actual costs of providing services and represent the maximum allowable reimbursement. Staff has developed a sliding fee scale that incorporates the actual costs as the highest rate and sets lower rates at lower income levels. This ensures that the City can recover the greatest amount of reimbursement possible, while ensuring that low and moderate-income families can still afford services.

FRC Mental Health Services Fees

HUD Income Level	Percent of Median	Mental Health	Case Management	% of Fee
Extremely Low	0-39%	\$0	\$0	0%
Low	40-59%	\$8	\$6	5%
	60-69%	\$16	\$13	10%
	70-89%	\$25	\$19	15%
Moderate	90-109%	\$33	\$25	20%
	110-129%	\$49	\$38	30%
	130-139%	\$66	\$50	40%
	140-159%	\$82	\$63	50%
	160-179%	\$99	\$75	60%
	180-189%	\$115	\$88	70%
	190-199%	\$132	\$100	80%
	200% and above	\$165	\$125	100%

Staff is proposing that fees paid by clients for FRC mental health services may be waived if one of the following applies: (1) payment of the fee would cause financial hardship to the client; or (2) the client would refuse necessary services if assessed a fee, which would likely result in higher cost interventions.

ENCLOSURE:

- Draft Resolution
- Exhibit A – Fee Schedule for FRC Mental Health Services

RECOMMENDATION:

1. Hold a public hearing.
2. Adopt a resolution to incorporate a fee schedule change to add FRC mental health services fees, as described in the staff report, to the Master Fee Schedule.

5.1 CONSIDERATION OF ORDINANCE CREATING LICENSING REQUIREMENTS FOR PLACES OF ENTERTAINMENT

Public Hearing to Consider Adoption of an Ordinance Regulating the Operation of Specified Places of Entertainment by Requiring Operators to Obtain an Entertainment License

Contact Person:

Name:	Harvey E. Levine	Craig Steckler
Title:	City Attorney	Chief of Police
Dept.:	City Attorney's Office	Police Department
Phone:	510-284-4030	510-790-6800
E-Mail:	hlevine@fremont.gov	csteckler@fren

Executive Summary: The City of Fremont encourages the development of arts and culture and recognizes that entertainment establishments support such activities. When entertainment establishments are not operated properly, however, an environment is created which has the demonstrated potential for excessive noise generation and disorderly conduct by patrons, particularly at closing times, with attendant adverse public safety impacts on the surrounding businesses and residential communities. The purpose of this ordinance is to regulate the operation of entertainment establishments for the public safety by requiring all operators to obtain a license. Licensees will be held responsible for controlling patron conduct in and around the establishments, making adequate provisions for security and crowd control, protecting the City's residents from criminal activity and minimizing disturbances resulting from operation of the establishment.

BACKGROUND: The City has experienced a number of serious problems related to patron conduct and lack of effective management at various nightclub/dance club venues throughout the City. Recent incidents have included physical fights involving multiple subjects, two homicides, two attempted homicides, multiple stabbings, shots fired, and a rape. Other problems include public drunkenness, vandalism of cars and businesses, public urination and other illegal, annoying and disruptive activities. Fremont police have had to spend an inordinate amount of time responding to these incidents to prevent and control major disturbances, which has affected other areas of the City by depleting the availability of police resources. In some instances, the response to problems at these establishments has required assistance from other public agencies. The City currently does not have effective measures in place in its municipal code to regulate dance club/night club type entertainment establishments. At its December 2, 2008, meeting the City Council considered whether to adopt an urgency interim zoning code measure to prohibit the establishment of any new nightclubs/dance clubs for a specified period of time while staff developed an ordinance to improve Fremont's regulations. The Council decided against adopting an urgency zoning measure, and instead directed staff to return in January with a regulatory structure designed to promote the safe and effective operation of entertainment venues.

Discussion: Based upon this direction, staff has prepared an ordinance which would impose license requirements on operators of places of entertainment where *alcohol is consumed* and *live entertainment and dancing* is provided. A copy of the proposed ordinance is included with this report. Because of time constraints, staff has focused generally on the types of establishments that have the potential to cause the most problems; namely, those with alcohol, dancing and live entertainment. If City Council adopts the

proposed ordinance, staff will continue to review the problems associated with other places of entertainment and report back to City Council on whether modifications to the ordinance for broader regulation may be warranted. Meanwhile, the proposed ordinance adds a new Chapter 14 to Title V (Businesses, Professions and Trades) of the Fremont Municipal Code entitled “Places of Entertainment Regulations.”

The ordinance defines “places of entertainment” as commercial establishments where patrons 1) are offered or consume alcohol, 2) dance, and 3) listen to amplified sound. Places of entertainment are divided into two classes: Class 1 consists of those places that provide live entertainment; Class 2 consists of all others. At this time staff is proposing only the regulation of Class 1 facilities. Regulations pertaining to Class 2 facilities would be added in the future if Council so directs.

In addition, as the ordinance is currently drafted, the definition of Class 1 facilities excludes facilities rented out for private events, such as banquet halls. (Sec. 5-14003.) The Police Department has suggested that it would be appropriate and desirable to include banquet hall-type facilities in the Class 1 definition because they generate many of the serious problems the City has faced. Staff is asking that Council consider whether to add these types of facilities to the Class 1 definition in the ordinance, and direct staff accordingly. If Council so directs, the ordinance can be revised by deleting the language in Section 5-14003 that exempts these facilities and be introduced as modified.

Under the proposed ordinance, all persons wishing to operate a Class 1 place of entertainment (alcohol + dancing + live entertainment) will be required to obtain a license prior to commencing operation. Live entertainment includes the playing of recorded music by disc jockeys as well as presentations by performers. (Sec. 5-14002) Class 1 places of entertainment that are in existence and operating on the date this ordinance is adopted will not be required to obtain a license until certain triggering events occur. (Sec. 5-14003.)

Issuance of the Class 1 Licenses shall be under the supervision of the Chief of Police. The ordinance describes the application process and requirements for obtaining a license, including payment of an application fee, and provides that licenses shall be subject to renewal every two years. (Sections 5-14004 – 5-14012.)

The ordinance sets forth operating conditions relating, among other things, to hours of operation, noise, responsible beverage service training and security, and provides for the imposition of such additional conditions as the Chief deems appropriate. (Sections 5-14014 – 5-14015.)

The ordinance describes the process and standards for license renewals, modifications, and revocations. Applicants or licensees may appeal the determination of the Chief to the City Manager through a specified hearing procedure. (Sections 5-14016 -5-14019.) Finally, the ordinance describes remedies for violations. (Sec. 5-14019.)

Environmental Review: This ordinance is exempt from the California Environmental Quality Act under guideline 15061(b)(3) in that it can be seen with certainty it will not have a significant effect on the environment.

ENCLOSURE: Draft Ordinance

RECOMMENDATIONS:

1. Hold public hearing.
2. Find the project is exempt from the California Environmental Quality Act under guideline 15061(b)(3) in that it can be seen with certainty it will not have a significant effect on the environment.
3. Introduce an ordinance amending Title V of the Fremont Municipal Code by adding Chapter 14, entitled “Places of Entertainment Regulations” as set forth in the draft ordinance.

6.1 Report Out from Closed Session of Any Final Action

7.1 UPDATE ON FORMER CITY CORPORATION YARD

Staff Update and City Council and Redevelopment Agency Guidance on Potential Disposition and Development of the Former City Corporation Yard Located at 37350 Sequoia Road in the Centerville Redevelopment Project Area

Contact Person:

Name:	Bill Cooper	Elisa Tierney
Title:	Housing Project Manager	Redevelopment Agency Director
Dept.:	Office of Housing & Redevelopment	Office of Housing & Redevelopment
Phone:	510-494-4520	510-494-4501
E-Mail:	bcooper@fremont.gov	etierney@fremont.gov

Note: A companion item is included on tonight's Redevelopment Agency Board Agenda.

Executive Summary: Staff is providing an update on the status of the former City Corporation Yard and requesting City Council and Redevelopment Agency guidance on the potential disposition and development of the City-owned site located on Sequoia Road in Centerville. Staff proposes the following possible alternatives for the City Council and Agency Board to consider in regards to taking action on this item: (1) the City Council and Agency Board wait for the Plan Amendment to be adopted before taking action (staff's recommendation); or (2) the City sells the land on the open market and uses the proceeds to purchase an alternate site to develop affordable housing. Staff recommends that the City Council and Agency Board wait until the Plan Amendment is adopted before taking any action regarding the disposition and development of the former Corporation Yard site.

BACKGROUND: On February 26, 2008, staff updated the City Council on current affordable housing projects and requested the Council's guidance on the possible use of the former City Corporation Yard for affordable housing development. The City Council generally supported the idea of affordable or mixed income housing on the site but requested staff return at a future City Council meeting to respond to questions and concerns raised by the City Council, and to provide more detail about possible development alternatives. What follows is a summary of the key issues regarding the site.

Site Land Area: Table 1 below summarizes land use information about the site:

TABLE 1: SUMMARY OF PERTINENT FACTS	
Property Location:	37350 Sequoia Road, Fremont (APN 501-1310-009-02)
Gross Site Area (GLA):	+/-4.89-acres (213,008-sf)
Net Buildable Area for Buildings (GLA less easements and setbacks):	+/-3.11-acres (135,472-sf)
Current Zoning:	R-G-19, Garden Apartment Residence District, 1,900-sf minimum lot size per acre
General Plan:	Residential High Density, 23 to 27 dwelling units per acre

Site Constraints: While the site and surrounding area are relatively level, a water reservoir is located along the property's eastern boundary. A 2005 geotechnical slope stability analysis prepared by an outside engineering firm concluded that the property's eastern bank along the reservoir could be potentially unstable during a major earthquake. The incident of risk would increase significantly if the water level were allowed to fall below current elevations. As a result, there is a 60-foot setback requirement along the site's eastern edge, which renders that portion of the site suitable only for parking or landscaping. However, the geotechnical report stated that the instability issue could be mitigated by applying stabilizing methods at an estimated cost of \$1.0 million (in 2005). In addition, the site is subject to easements which further reduce its buildable area. A site plan identifying the site's easements and set-backs is included in the enclosures to this staff report.

The Sequoia Road site is located approximately ¼ mile from the Centerville Train Depot on Fremont Boulevard; however, pedestrian access is not available between the two points because they are separated by active railroad tracks. These adjacent Union Pacific (UP) railroad tracks serve as a barrier by preventing access to Peralta Boulevard, which leads directly to the Train Depot. As a result of this barrier, the site would not be considered a transit-oriented development (TOD) site, which is discussed further in this report.

Site Cleanup Status: In August 2004, the City Council directed staff to proceed with cleanup, demolition and other work necessary to prepare the former Corporation Yard for sale. The site has been cleared of hazardous material and contamination, and buildings have been demolished with the exception of concrete foundations, sidewalks, fencing and asphalt paving. The cleanup work has been closed out by the Fremont Fire Department, and staff is awaiting the formal close-out letter from the State Water Resources Quality Control Board, anticipated by the end of December 2008.

Estimated Sales Proceeds: In November 2007, an appraisal was completed for the property, which estimated the value at approximately \$8 million after minor deductions for demolition and debris removal. If the City were to sell the property at market value, and net out all City costs to date (e.g., cleanup, demolition, staff time, appraisal work), net proceeds could be as much as \$6.5-\$6.9 million.

Financing options: The Redevelopment Agency has limited funding available in its Housing Fund and, given other existing projects, and ongoing programs, it is highly unlikely the Agency's Housing Fund would have the resources available to take on any other new affordable housing projects without borrowing. Recently, the Agency Board approved funding for two new projects: Eden Housing's Peralta Boulevard Senior project, for which the Agency Board has committed \$2.25 million (with an additional request of \$9.98 million to be considered by the Agency Board this evening); and Allied Housing's Main Street Village project, for which the Agency Board has committed \$3.219 million. As these projects continue moving forward, it is likely that they will require additional resources to cover contingencies and potential cost overruns, thereby further limiting the Agency's ability to assist new housing projects.

An additional constraint is the most recent proposal from the State's Legislative Analyst's Office to make permanent the Educational Revenue Augmentation Fund (ERAF) raid on agencies. If this proposal becomes effective for Fremont it would mean an annual takeaway of \$2.3-\$2.6 million, and would amount to an approximately \$8.5 million reduction in Agency's non-housing revenues through

FY 2011/12. This would significantly decrease the balance of the Agency's non-housing revenues, thereby further limiting the Agency's capacity to lend funds to the housing projects.

At the last meeting, the Council considered the idea of a bridge - or short term loan from the Agency's non-housing fund to the Agency's Housing Fund in order to purchase the site. Under this scenario, repayment would be made only if and when the Plan Amendment occurs (the Plan Amendment would increase the tax increment revenue cap to provide the Agency with additional financing resources). However, given the significant possibility of additional State (ERAF) takeaways, it would be difficult for the non-housing fund to lend the funds without jeopardizing other non-housing projects. Moreover, since the site would have considerable value if it were sold on the open market, the City may not want to limit itself to a scenario in which repayment is made only if the Plan Amendment is adopted.

A final alternative would be to wait: if the Agency is successful in its Plan Amendment efforts to raise the tax increment cap, then the Agency would have additional housing funds to put towards affordable housing projects, such as the former Corporation Yard site.

Site Development Alternatives: To get a sense of what could be developed on the site, staff worked with Field Paoli Architects and Dan Lopez, an affordable housing financial consultant, to create development alternatives and to look at affordable housing financing options to determine the level of Agency affordable housing subsidy that may be required to assist in developing affordable housing. The three housing development alternatives, Scheme A (112 affordable units), Scheme B (76 market-rate and 76 affordable units) and Scheme C (72 market-rate and 130 affordable units), along with the associated density, affordability, estimated development cost and financing gap, are summarized in Table 2, below. Also, draft site plans assumed for Schemes A-C are included as an enclosure to this report:

TABLE 2: DEVELOPMENT ALTERNATIVES - SCHEMES A, B & C			
	Scheme A (100% Affordable)	Scheme B (Mixed- Income)	Scheme C (Mixed- Income)
No. of Housing Units:			
Market Rate Housing	0	76	72
Affordable Housing	112	76	130
Total Housing Units	112	152	202
Percent of Units Affordable	100%	50%	64%
Density	36 du/ac	48.9 du/ac	65 du/ac
Affordability:	% of AMI	% of AMI	% of AMI
4% Tax Credits w/Tax Exempt Bonds	50-60%	50-60%	50-60%
4% Tax Credits w/Tax-Exempt Bonds & MHP	30-60%	30-60%	30-60%
9% Tax Credits	30-50%	30-50%	30-50%

TABLE 2: DEVELOPMENT ALTERNATIVES - SCHEMES A, B & C			
Affordable Housing Cost & Financing Gap Summary (Millions):			
Estimated Total Development Cost	\$42.9	\$32.9	\$56.6
Financing Gap:			
4% Tax Credits w/Tax Exempt Bonds Gap per unit	\$25.2 (\$225,000)	\$18.8 (\$247,000)	\$24.8 (\$191,000)
4% Tax Credits w/Tax-Exempt Bonds & MHP Gap per unit	\$19.0 (\$170,000)	\$14.7 (\$193,000)	\$19.2 (\$148,000)
9% Tax Credits Gap per unit	\$22.2 (\$198,000)	\$13.5 (\$178,000)	\$22.6 (\$174,000)
Key: du/ac=dwelling units per acre; AMI=Area Median Income; MHP= State Multifamily Housing Program loan			
Note: Estimated Total Development Cost and Permanent Financing Gap are expressed in millions. The associated per affordable unit financing gap is indicated in the parenthesis and stated in actual dollars, rounded. The Financing Gap includes the cost of land (\$8 million cost assumption).			

The top portion of Table 2 summarizes the number of market-rate and affordable units and density (unit per acre) assumed for Schemes A-C. The middle portion of the table contains the income ranges targeted for the affordable units expressed as a percent of area median income, based on the assumed affordable housing financing options. The bottom portion of Table 2 summarizes estimated total development cost and the associated financing gap (per affordable unit financing gap in parenthesis) that results from financing the affordable housing units assuming (1) 4% tax credits and tax-exempt bonds, (2) 4% tax credits with tax-exempt bonds and State Multifamily Housing Program (MHP) loan, or (3) 9% tax credits.

The estimated financing gaps for the affordable units range from \$13.5 million (\$178,000 per unit) to \$25.2 million (\$225,000 per unit) and include the cost of land, estimated at \$8 million. The mixed-income alternatives assume that part of the land would be sold to the market-rate developer and the proceeds used to subsidize the affordable units. A developer would be expected to look at the universe of available funding sources to close a project's funding gap; however, affordable housing developers generally expect the local jurisdiction to assist with closing any remaining financing gap. Staff cautions that the development cost numbers provided by the consultant are estimates and do not necessarily reflect the actual cost to develop the units presented in this report.

Other Alternative Site Uses: The Sequoia Road site is located in a residential neighborhood surrounded by existing multifamily residential developments (apartments and condominiums). Should affordable or mixed-income housing not be developed on the site, an alternative use, consistent with existing uses, would be market rate housing at 23-27 dwelling units per acre.

Access Issues and Alternate Sites: The physical barrier of the UP railroad tracks between the site and the Centerville Train Depot makes it doubtful that the site would be eligible for funding as a transit-oriented development site (TOD). TOD sites are often measured by a 5-10 minute walking distance (generally ¼ to ½ mile distance) from the edge of the development to the transit station. It is a 1.2 mile walk to the Train Depot on City public streets and sidewalks. By walking on an unimproved path along the railroad tracks on railroad right-of-way the distance is ¼ mile to the Train Depot.

Adjacent to the project site (separated by Sequoia Road), and situated alongside the UP right-of-way, are the Baywood Villas condominiums. Staff has contacted Baywood Villas's homeowner's association to determine whether they would allow public access on their property to provide part of a pedestrian path to the Train Depot. A representative of the association will discuss this issue with the association board and respond to staff. If such a pedestrian path should not prove possible, then the only other alternative would be to head north on Paseo Padre Boulevard, then west on Thornton Avenue to Fremont Boulevard to the station. As noted above this distance is approximately 1.2 miles.

When applying for affordable housing development funds such as tax credits and State funding, projects score well on their applications when amenities are generally less than one mile from the site. The Sequoia Road site would likely not score well because basic amenities are greater than one mile from the site when considering the barrier created by the railroad tracks. The distance of basic amenities to the site are: Centerville Train Depot-1.2 miles; large grocery store and pharmacy in shopping center located at Fremont Boulevard and Nicolet Avenue-1.3 miles; American High School-0.9 miles; Centerville Jr. High School-1.2 miles; and AC Transit bus stop (limited hours)-.25 miles.

At its February meeting, the City Council discussed TOD site issues and alternative sites in the event that direct pedestrian access would not prove feasible. The Council requested staff research other potential sites closer to transit stations and other amenities and, therefore, more suitable as TOD housing development. Staff looked at a number of sites throughout the City that would be appropriate for affordable housing development, evaluating them primarily on size and proximity to amenities, such as public transportation, and services, such as grocery stores and schools. The staff report does not include a list of all sites considered because the owners have not been contacted.

One site where staff has been in contact with the owner is the Islander Motel site located on Mowry Avenue across the street from the Fremont Hub Shopping Center, which contains a large grocery store and other amenities. The Islander site would be appropriate for affordable housing if it could be combined with three vacant, adjacent sites to create a 2.2-acre development site. It is not likely the sites can be assembled at this time because the Islander's owner has recently completed substantial repairs on the motel and does not appear interested in selling the property in the near future.

There are several underutilized parcels located on the east side of Osgood Road north of Blacow Road in the Irvington Project Area that may be worth exploring for future affordable housing development. These parcels total approximately 14 acres and were rezoned as part of the General Plan update to allow at least 30 dwelling units per acre. These sites are located within 0.5 miles of the future Irvington BART station, 0.6 miles from a shopping center on Fremont Boulevard with a large grocery store and less than a mile from Grimmer Elementary School and Mission Valley Elementary School. Developing housing would require purchasing and assembling available parcels, which have multiple owners. Also, some of

the properties are impacted by a fault line and steep grades. Developing housing would also displace current industrial uses.

Pedestrian Crossing: As noted earlier, there is no easy access from the site to the Centerville Train Depot due to the barrier of the UP railroad tracks. With the approval of UP, it might be possible to build a pedestrian bridge or tunnel to allow pedestrians to safely cross the railroad tracks at Sequoia Road to access Peralta Boulevard, which leads directly to the station, a distance of about 0.3 miles. Such alternatives would be costly and could add as much as \$1-\$5 million in additional project costs.

Fiscal Impact/ Funding Availability: As discussed earlier, the Agency has a limited amount of affordable housing funds to invest in new projects. Although the Agency is actively pursuing a Plan Amendment to raise the tax increment revenue cap, until such a Plan Amendment has been adopted, the Agency cannot commit to additional funding over and above its current projection of available revenues.

The schedule for the Plan Amendment anticipates its adoption in late fall 2009. Given the Agency's commitments to the Eden/Peralta Boulevard and Allied/Main Street projects, and the prospect of Agency funds being diverted to the State, it seems prudent to wait for Plan Amendment adoption to pursue additional projects, such as the purchase of the former Corporation Yard site.

Options for Action: Based on the issues presented in this report, staff proposes the following possible alternatives for the City Council and Agency Board to consider in regards to taking action on this item:

1. The City Council and Agency Board wait for the Plan Amendment to be adopted before taking action (if approved, the Plan Amendment would be adopted in late fall 2009, based on current information). Staff recommends option 1.
2. The City sells the land on the open market and uses the proceeds to purchase an alternate site more appropriate for developing affordable housing.

ENCLOSURES:

- Aerials
- Site plan

RECOMMENDATION: Staff recommends that the City Council and Agency Board wait until the Plan Amendment is adopted before taking any action regarding the disposition and development of the former Corporation Yard site.

8.1 Council Referrals

8.1.1 MAYOR WASSERMAN REFERRAL: Appointment of Tim Tran to the Redevelopment Agency Relocation Appeals Board

Appointment:

<i>Advisory Body</i>	<i>Appointee</i>	<i>Term Expires</i>
Redevelopment Agency Relocation Appeals Board	Tim Tran	December 31, 2010

ENCLOSURE: Commission Application

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD	Fremont Unified School District
ACCMA	Alameda County Congestion Management Agency	GIS	Geographic Information System
ACE	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD.....	Alameda County Flood Control District	HARB	Historical Architectural Review Board
ACTA	Alameda County Transportation Authority	HBA	Home Builders Association
ACTIA.....	Alameda County Transportation Improvement Authority	HRC	Human Relations Commission
ACWD.....	Alameda County Water District	ICMA	International City/County Management Association
BAAQMD	Bay Area Air Quality Management District	JPA	Joint Powers Authority
BART	Bay Area Rapid Transit District	LLMD	Lighting and Landscaping Maintenance District
BCDC	Bay Conservation & Development Commission	LOCC.....	League of California Cities
BMPs	Best Management Practices	LOS	Level of Service
BMR	Below Market Rate	MOU	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD	Central Business District	NEPA	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA	California Environmental Quality Act	PC.....	Planning Commission
CERT.....	Community Emergency Response Team	PD	Planned District
CIP	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA	Congestion Management Agency	PVAW.....	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF	City of Fremont	RDA	Redevelopment Agency
COPPS.....	Community Oriented Policing and Public Safety	RFP	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC	California Transportation Commission	RHNA	Regional Housing Needs Allocation
dB	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO	Residential Rent Increase Dispute Resolution Ordinance
DO	Development Organization	RWQCB	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET	Southern Alameda County Narcotics Enforcement Task Force
EBRPD	East Bay Regional Park District	SPAA	Site Plan and Architectural Approval
EDAC	Economic Development Advisory Commission (City)	STIP	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS	Environmental Impact Statement (NEPA)	T&O	Transportation and Operations Department
ERAF.....	Education Revenue Augmentation Fund	TOD	Transit Oriented Development
EVAW	Emergency Vehicle Accessway	TS/MRF	Transfer Station/Materials Recovery Facility
FAR	Floor Area Ratio	UBC	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27
BROADCAST SCHEDULE**

<i>Date</i>	<i>Time</i>	<i>Meeting Type</i>	<i>Location</i>	<i>Cable Channel 27</i>
January 20, 2009	6:00 p.m.	Work Session	Council Chambers	Live
January 27, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 2, 2009 (Monday)	4:00 p.m.	Joint City Council/FUSD Mtg.	Council Chambers	Live
February 3, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 10, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 17, 2009	TBD	Work Session	Council Chambers	Live
February 24, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 3, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 10, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 17, 2009	TBD	Work Session	Council Chambers	Live
March 24, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 31, 2009 (5 th Tuesday)		No Meeting		
April 7, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 14, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 21, 2009	TBD	Work Session	Council Chambers	Live
April 28, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live